

UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
DURHAM DIVISION

In Re:

Tonya Gail McCrae

Case No. 12-81181

Chapter 13

Social Security No. xxx-xx-2577

Address: 809 Beebe Drive, Durham NC 27713-

Debtor

**ORDER AVOIDING JUDICIAL LIEN OF LVNV FUNDING LLC
PURSUANT TO 11 U.S.C. § 522(f)**

THIS CHAPTER Chapter 13 CASE is before the Court for consideration of a motion filed by the Debtor to avoid a judicial lien pursuant to U.S.C. § 522(f) of the Bankruptcy Code; and having considered the motion and the other matters of record in this case, the Court finds and concludes as follows:

1. That after due notice of the Motion to Avoid Judicial Lien to all parties in interest, the time for objecting to the relief requested has expired without any objections being, filed; and
2. The Debtor is now, and has been at all times since this case was filed, the owner of real property (hereinafter "said property") as recorded in the Registry of Deeds for the County of Durham, North Carolina, which property may also now or formerly be known as 809 Beebe Drive Durham NC 27713.
3. That said real property had a value of \$177,204.00, as of the date this bankruptcy case was filed; and
4. That as of the date this case was filed, said property was the residence of the Debtor, and the Debtor has claimed and was entitled to claim an exemption in said property pursuant to N.C.G.S. § 1C-1601(a)(1) of not more than \$35,000.00; and
5. That LVNV Funding LLC holds a judicial lien recorded on in the Durham County, as referenced in file number 09CVD5346, in the amount of approximately \$3,007.70, plus interest at the rate of 8.00 percent per annum. That, upon information and belief, the balance owing to said creditor concerning said judicial lien, together with interest, as of the date this case was filed, was approximately \$3,007.70; and
6. That said judicial lien constitutes a lien upon said real property; and
7. That, as of the date this case was filed, the only other liens against the property recorded in Durham County were the following:

Name of Creditor Holding Lien	Type of Lien	Payoff Amount of Lien
Bank Of America Home Loans	Deed of Trust	\$201,000.00
Total Amount of Other Liens:		\$201,000.00

8. That since the sum of the amount of the said judicial lien held by LVNV FUNDING LLC , the total amount of all other said liens on the said real property, and the amount of the exemption that the Debtor were entitled to claim if there were no liens on the property, exceeds the value of the real property (or, in the event that the Debtor own less than a 100% interest in said real property, the value of the Debtor's interest in said property) by \$61,803.70, the said judicial lien impairs an exemption of the Debtor; and
9. That, therefore, pursuant to U.S.C. § 522(f)(2)(A), the judicial lien is avoidable to the full extent of said judicial lien.

NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED as follows:

1. That said judicial lien held by LVNV FUNDING LLC , recorded in the Durham County, as referenced in file number 09CVD5346, is hereby avoided to the full extent of said judicial lien as to said real property ; and
2. This Order is to be of no force and effect outside of this Chapter 13 bankruptcy proceeding unless, and until, the Debtor obtains a discharge. A copy of the Order of Discharge is to accompany any recordation of this Order;
3. Furthermore, upon this Court entering an Order of discharge of the Debtor, said judicial lien shall be deemed cancelled-of-record in its entirety, and by virtue of such avoidance, said judicial lien is reduced to \$0.00; and
4. That, at such time , in accordance with the requirements of N.C.G.S. §47-29, the Register of Deeds for the County of Durham , North Carolina, may record in the office of said Register of Deeds a copy of this order avoiding said judicial lien, together with a copy of the discharge order issued in this bankruptcy case , upon being presented with certified copies thereof.

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Debtor

Debtor Name: Tonya Gail Mccrae	Case No: 12-81181
Service List for Order Avoiding Judicial Lien:	
Chapter 13 Trustee	John T. Orcutt Attorney for Debtor (by electronic noticing)
LVNV FUNDING LLC Attn: Managing Agent Post Office Box 740281 Houston , TX 77274-	U.S. Bankruptcy Administrator (by electronic noticing)
Smith Debnam Narron Drake & Myers Llp Attorney P O Box 26268 Raleigh , NC 27611-	
Tonya Gail Mccrae 809 Beebe Drive , Durham NC 27713-	